

IDAHO POWER CO.,	:	Order Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 97-82-A
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 2, 1997

Appellant Idaho Power Co. sought review of a November 21, 1996, decision issued by the Portland Area Director, Bureau of Indian Affairs, holding that 25 U.S.C. § 81 (1994) did not require that a settlement agreement between the Nez Perce Tribe (Tribe) and Appellant be approved by the Secretary of the Interior and the Commissioner of Indian Affairs. By order dated February 4, 1997, the Board of Indian Appeals (Board) stayed proceedings before it based on Appellant's representation that this appeal was part of ongoing litigation between itself and the Tribe in the United States District Court for the District of Idaho and the United States Court of Appeals for the Ninth Circuit, and that certain actions by those courts could moot the appeal.

On March 31, 1997, the Board received a request from Appellant to withdraw the appeal. The request states at pages 1-2:

As the parties had hoped, the Ninth Circuit and the District Court have responded favorably. The last step in this process occurred on March 21, 1997, when the United States District Court for the District of Idaho entered a Judgment * * * in an action between the Tribe and [Appellant] that incorporates the terms of a settlement between the parties and provides for continuing federal court jurisdiction to enforce its terms.

The District Court's Judgment renders this appeal moot. Consequently, [Appellant] requests that its appeal be withdrawn. The undersigned is authorized to represent that Tribal counsel concurs in the foregoing assessment and has no objection to the withdrawal of [Appellant's] appeal.

Based upon the request of Appellant and pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the Portland Area Director's November 21, 1996, decision is dismissed on the grounds that it has been withdrawn by Appellant. This dismissal is with prejudice.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge